

## QCAT Practice Direction No. 8 of 2010

### Directions relating to guardianship matters

Updated on 12 November 2021

1. This Practice Direction replaces Practice Direction No. 10 of 2009, which is hereby repealed.
2. The Presidential Directions listed below, issued under the *Guardianship and Administration Act 2000*, are adopted as practice directions under the *Queensland Civil and Administrative Tribunal Act 2009*. References to the Guardianship and Administration Tribunal are to be read as references to the Queensland Civil and Administrative Tribunal. Relevant section numbers set out in the attached schedule have been changed as a result of amendments to the *Guardianship and Administration Act 2000*:

No 3 of 2004 - Advice to registrar of titles if appointment concerns land

No 2 of 2007 - Approval of management plans prepared by administrators appointed under s 245 of the *Guardianship and Administration Act 2000*


3. The [Protocol for Special Medical Procedures \(Sterilisation\)](#) dated 6 May 2009, made by the *Australian Guardianship Administration Council* is adopted by the tribunal for matters involving sterilisation. All references in the Protocol to the tribunal are references to the Queensland Civil and Administrative Tribunal.<sup>1</sup>
4. The following matters will be heard on the papers by a member of the tribunal, unless the member allocated to hear the matter recommends that it is more appropriate that it is dealt with by an oral hearing:
  - (a) Application for recognition of an order made under another law;
  - (b) Review of the appointment of an administrator, guardian and guardians for restrictive practices;
  - (c) Approval of financial management plans, other than those specified in Presidential Direction No 2 of 2007; and
  - (d) Application for the appointment of an administrator in which the proposed appointee is The Public Trustee of Queensland and none of the active parties oppose the appointment.

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<sup>1</sup> See page 2 of the Protocol: the word "tribunal" is used in this Protocol as a standard, general identifier to refer to each state and territory body, which has jurisdiction for capacity, guardianship and administration matters. Practitioners and applicants should check the exact name of the relevant body in their state or territory.

("Active Party": Each of the following persons is an active party for a proceeding in relation to an adult—

- (a) the adult;
  - (b) if the adult is not the applicant—the applicant;
  - (c) if the proceeding is for the appointment or reappointment of a guardian, administrator or attorney for the adult—the person proposed for appointment or reappointment;
  - (d) any current guardian, administrator or attorney for the adult;
  - (e) the adult guardian;
  - (f) the public trustee;
  - (g) a person joined as a party to the proceeding by the tribunal.)
5. A review of an appointment of a guardian and/or an administrator made by the Tribunal will be conducted at the end of the period of the appointment as ordered by the Tribunal except in cases where:
- (a) New and relevant information has become available since the hearing; or
  - (b) A relevant change in circumstances has occurred since the hearing; or
  - (c) Relevant information that was not presented to the Tribunal at the hearing has become available;
- And, in accordance with s 31 *Guardianship and Administration Act 2000*:
- (d) The current appointee is no longer competent; or
  - (e) Another person is more appropriate for appointment.
6. The Tribunal may hear and dismiss on the papers an application requesting a review of appointment of a guardian and/or administrator which the Tribunal determines does not disclose the information required in paragraph 5 of this practice direction.



Hon Justice Martin Daubney AM  
President

12 November 2021



## Schedule of section changes

Presidential Direction 3 of 2004	Remove s 110 of the <i>Guardianship and Administration Act 2000</i> and replace with s 226 of the <i>Queensland Civil and Administrative Tribunal Act 2009</i>
Presidential Direction 2 of 2007	Remove ss 100 and 110 of the <i>Guardianship and Administration Act 2000</i> and replace with s 226 of the <i>Queensland Civil and Administrative Tribunal Act 2009</i>